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# INTERGOVERNMENTAL RELATIONS IN SOUTH CAROLINA

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For most of South Carolina's history, the primacy of the General Assembly in local matters has been almost absolute and rarely questioned. The various state constitutions, through the Constitution of 1895, give almost all authority over local structure and function to legislators in Columbia who have been only infrequently willing to relinquish their powers and expand the sphere of local autonomy.

This paternalism is fully consistent with South Carolina's traditionalistic political culture and its pre-industrial political economy. Traditionalistic values asserted that the state was best governed by a relatively small cabal of statewide political and economic elites. Thus there was little need for counties and city governments to possess independent powers or the authority to organize themselves as they saw fit. And as long as the state's political economy remained predominantly agricultural, there was little apparent need to provide local governments with the capability to provide the more complex services of an industrial society or to compete in a post-industrial global economy.

The social and economic changes which have swept the nation and the South in the last half of the twentieth century have placed considerable stress on South Carolina's traditionalistic system of intergovernmental relations and have inaugurated a period of adjustment in the relationship between the state government in Columbia and cities and counties across the state. First, the civil rights movement and the end of legal segregation have removed the linchpin of traditionalism and have moderated both its repressive tendencies and attendant fears of disrupting social and economic influences from outside the state. The opening up of the state in turn inaugurated a period of unprecedented social change and economic growth, integrating South Carolina, especially its urban and suburban regions, into the industrial

world of the twentieth century. Along with the rest of the nation, South Carolina and its cities and counties now find themselves part of a global economy and must compete with other locales for a share of the world's increasingly mobile capital.

These developments have compelled South Carolina to re-examine its governmental institutions to bring them into conformity with a more diverse industrial economy and the competitive demands of the global marketplace. At the state level, the most important changes have strengthened the state executive at the expense of the long-dominant General Assembly. In the sphere of intergovernmental relations, reforms have also, at least in principle, eroded the General Assembly's traditional ascendancy in South Carolina government and imposed the more market-based values of the individualistic political culture upon the state-local relationship.

The most important institutional manifestation of the intergovernmental order has been the granting of "home rule" to cities and counties in the mid-1970s. Yet the devolution of power to local governments has been only partial and remains incomplete in some of its most important aspects. Vestigial remains of the traditionalistic top-down relationship between the state and local governments continue to shape intergovernmental relations in South Carolina. This article focuses on two aspects of that relationship which most clearly reflect the tension between the state's traditionalistic cultural heritage and emerging individualistic norms and practices: the failure of the General Assembly to include fiscal autonomy in its grant of home rule to localities; and the continued economic and political weaknesses of South Carolina's cities.

### **The Unfulfilled Promise of Home Rule**

Upon the adoption of the South Carolina Constitution of 1895, the General Assembly moved quickly to assert its accustomed authority over local government. Counties were limited to traditional "county purposes" such as roads, prisons and law enforcement and were governed by the county legislative delegations through a device called the "supply bill", a local appropriations measure of the General

Assembly which served as the county's budget.<sup>1</sup> As legal corporations, municipalities were not as completely under the heel of the General Assembly as were counties, but cities and towns continued to be limited in their authority by legislation which granted them powers by population category and by special legislation which limited their authority to undertake new responsibilities.<sup>2</sup>

South Carolina's system of weak local governments was an outgrowth of traditionalistic culture and was perhaps suited to the state's pre-industrial political economy until the mid-twentieth century when the coming of civil rights accelerated economic development and brought intense pressure for change. As the economy grew in the 1960s and 1970s, businesses and individual citizens, many recently transplanted from more developed regions, began to demand better local services and more responsive local institutions.<sup>3</sup> Moreover, court-mandated reapportionment under the one-person, one-vote principle forced the South Carolina General Assembly to adopt single-member legislative districts, thereby removing the representational underpinnings of county government by legislative delegations.

In 1972 the voters of South Carolina approved, and in 1973 the General Assembly ratified, a constitutional amendment which allowed the General Assembly to provide by general law for the structure and powers of local governments. Subsequently, in 1975, the General Assembly exercised this new authority and adopted the Local Government Act, usually referred to as the Home Rule Act. The legislation provides for counties to establish their own governments, choosing from among five organizational structures outlined in the law. Thus the supply bill became obsolete and counties were given the power to enact ordinances, organize departments and adopt their own budgets. Hence the major achievement of the new legislation was the effective re-creation of the South Carolina county as a new, quasi-independent unit of local government. The legislation's major effect on municipalities was its supersession of most local special legislation by a more general and uniform grant of authority to cities and towns.<sup>4</sup>

Although the home rule legislation departed sharply from the state's tradition of paternalistic rule from Columbia, it failed to remove all limitations and constraints imposed on local governments by the state. The General Assembly still has broad powers over local government



responsibilities and capabilities. Indeed it may be said that the impact of the law has been to impose new public service burdens on local governments without providing them with the necessary tools to meet those responsibilities. The most important of these constraints are the provisions of state law which deprive cities and counties of fiscal autonomy and saddle them with additional financial burdens.

### **The Issue of Fiscal Home Rule**

With some minor exceptions, most notably a local option one-cent sales tax which can only be adopted by county referendum, the General Assembly under the 1895 Constitution has limited local governments to the local property tax as virtually their only independent source of tax revenue. Since the passage of the Local Government Act in 1975, prevailing opinion in the General Assembly has held that home rule does not extend to taxation and that local governments must continue to receive specific legislative authorization for the adoption of any new taxes. Local governments and proponents of a more liberal interpretation of home rule have argued that without more fiscal flexibility, the recently-granted structural and functional autonomy of South Carolina's local governments is incomplete, imposing new duties and expectations on cities and counties but withholding the revenue raising capability needed to meet those responsibilities. The fiscal bind thus imposed on South Carolina's local governments has been made worse by the end of federal revenue sharing and sharp reductions in other federal programs for local governments during the decades of the 1980's and 1990's.

The reality of this dilemma is revealed by Table 1, which shows a steady decline over the years in the federal share of municipal and county revenues accompanied by a concomitant rise in dependence upon locally-generated revenues. The table also shows a decline in state-provided revenues which parallels the reductions in federal assistance. These figures show clearly why South Carolina local governments place a high priority on "fiscal home rule." In an era of growing local responsibility and attendant fiscal stress, they are receiving fewer dollars in intergovernmental transfers and having to rely increasingly

Table 1

Percentage of Total Revenues by Source of Funds  
South Carolina Municipalities and Counties

**Municipalities**

Year	Federal	State	Local
1976	26.4	11.2	61.3
1981	26.2	7.8	65.0
1986	14.9	8.2	76.9
1991	6.1	8.5	85.4

**Counties**

Year	Federal	State	Local
1976	11.2	24.4	64.2
1981	8.7	18.5	72.5
1986	5.8	14.6	79.6
1991	3.9	12.2	84.0

Source: SCACIR, *Home Rule in South Carolina*, pp. 26-27.

Note: Local revenues include interlocal transfers.

on local revenues. This is particularly true of municipalities, whose reliance on local revenues has grown by one-third since 1976.

Clearly South Carolina's cities and counties face a revenue crisis as population growth places new demands upon them for both facilities and services. From 1970 to 1990, a period as we have seen of sharp decline in intergovernmental support for local governments, South Carolina's population increased by 34 percent. The overwhelming bulk of this population growth (92 percent) occurred in the state's 22 metropolitan and coastal counties, which together experienced a population increase of 40.3 percent. The remaining 24 counties grew in population only 13 percent and accounted for only 8 percent of the population increase for the state as a whole.<sup>5</sup> Not surprisingly, the chorus of voices calling for fiscal home rule has been loudest in the metropolitan and coastal counties where the greatest service and infrastructure stresses are occurring.

These voices have received some legal support from the South Carolina Supreme Court. In two cases in which it has had the opportunity to rule on the fiscal powers of local government under home rule, the Court has ruled clearly in favor of a flexible interpretation of local revenue raising powers. In *Williams v. The Town of Hilton Head Island*, the court sustained a municipal real estate transfer fee earmarked for environmental preservation, ruling that under home rule the municipality did not require specific legislative authorization to levy the fee.<sup>6</sup> And in a more recent case the court sustained the imposition of new accommodations and restaurant meal taxes by cities and counties as proper exercises of the General Assembly's grant of power to local governments to "enact any ..... ordinance necessary and proper for the .... general welfare."<sup>7</sup> The latter decision departed radically from the prevailing interpretation of the relationship between acts of the General Assembly and local taxing authority, raising a furor among legislators. The reaction has been so intense that the decision may have the effect of further limiting local taxing powers rather than expanding them. There is currently a strong movement within the General Assembly to place further limits upon local fiscal authority such as the requirement of extraordinary majorities of local governing bodies for the imposition of any new taxes.

However the current legislative controversy may be resolved, South Carolina local governments will continue to act in a political and fiscal climate in which they are dependent upon grants of taxing authority by a General Assembly which is largely unfriendly to local fiscal autonomy.

### **Limits on Local Borrowing Authority**

The problem of local revenue flexibility is compounded by state-imposed limits on the borrowing authority of local governments. Current state law limits the bonded indebtedness of local governments to 8 percent of the assessed value of property within their jurisdictions. Any indebtedness over this limit can be incurred only with a popular referendum, an endorsement increasingly difficult to obtain in an age of citizen resistance to higher property taxes. This restriction severely hampers the ability of South Carolina cities and counties to meet the growing infrastructure needs of a developing economy and increasing population. Faced with these constraints, South Carolina local governments are increasingly turning to lease-purchase agreements as a way of overcoming state limitations on financing capital projects. These arrangements typically involve higher costs than traditional financing, but local governments have been unsuccessful in lobbying the General Assembly for legislation to ease state limits on local indebtedness.

### **Unfunded Mandates**

Like local governments around the country, South Carolina cities and counties have been increasingly burdened by both state and federally-imposed regulations which require new, unfunded financial responsibilities. By far the most fiscally burdensome of these regulations are imposed by the federal government and "passed through" to localities by state governments, including South Carolina. A survey of Greenville County local governments in 1993 concluded



that nine area governments were required to spend \$130 million to comply with ten major federal regulatory requirements, including those laid down by the Clean Air Act, the Clean Water Act and the Americans With Disabilities Act.<sup>8</sup>

Unfunded mandates are also imposed by South Carolina state government, often independent of any federal requirement. The most prominent of these mandates are the requirements of the 1991 South Carolina Solid Waste management Act which have imposed additional costs upon both cities and counties in waste disposal and landfill standards. But other state requirements also impose significant fiscal burdens upon local governments, including state regulation of jails, which impacts especially upon counties, juvenile justice standards, responsibilities imposed upon county health departments and a wide variety of other statutory and administrative mandates.

For the most part these have had salutary effects on local government in South Carolina. Coupled with federal regulations, they have improved the breadth and quality of local services and programs. But for the most part these improvements have brought with them increased financial burdens which local governments, given the political climate and state restrictions on their revenue-raising capacity, have found increasingly difficult to meet.

In response to the pleas of local governments, the General Assembly has passed two pieces of recent legislation to remedy the mandates problem. A fiscal note requirement adopted in 1991 provides for the State Budget Division to construct a fiscal note estimating the projected cost of proposed legislation to local governments. The estimation process involves participation by local governments from around the state. And in 1992 the General Assembly passed legislation requiring a two-thirds supermajority in each house for the imposition of new unfunded mandates on counties. The legislation contains a number of crucial exceptions, most importantly Federal pass-through provisions and criminal justice mandates. Moreover, the measure does nothing to address the continuing cost of pre-existing legislative mandates and traditional county support provided for state agencies and functions.<sup>9</sup>

The burdens imposed by unfunded mandates intensify the fiscal dilemmas confronted by South Carolina cities and counties as they seek to cope with the policy problems engendered by the economic and social modernization of recent decades. Some of the less tractable problems are most intense in South Carolina's major urban areas, where state policy and practice place special constraints on the ability of municipalities to seek ways to remedy them.

### **The Special Problems of South Carolina Cities**

Nowhere is the clash more pronounced between South Carolina's traditionalistic heritage and the realities of an emerging individualistic culture than in the state's rapidly developing metropolitan areas. South Carolina has experienced phenomenal economic and population growth in its metropolitan areas over the past four decades. In 1990 16 South Carolina counties were included in Metropolitan Statistical Areas as defined by the U.S. Census. These counties had a combined population of almost 2.5 million, or 69.5 percent of the state's total population. Nationally, 74.5 percent of all Americans live in MSAs. South Carolina's metropolitan counties have almost doubled in population over the past four decades and together account for 87.3 percent of the state's total population growth since 1950.

The vast bulk of this growth has taken place on the suburban fringe, outside the boundaries of the state's major cities. While the population of the metropolitan counties as a whole was almost doubling, from 1950 to 1990 the combined population of the cities which the U. S. Census now uses to designate the state's metropolitan areas (Columbia, Greenville, Charleston, North Charleston, Spartanburg, Aiken, Rock Hill, Florence, Myrtle Beach, Sumter and Anderson) increased by only 64 percent. Most of this increase in the urban population took place in peripheral cities such as Anderson and North Charleston, or in the coastal city of Myrtle Beach. South Carolina's traditional major cities—Charleston, Columbia, Greenville and Spartanburg—increased in population by only 9 percent over the same period. Thus, for example, Greenville, which lies at the heart of

an urbanized county of 320,000 and is the largest city in an MSA of 830,000, has a mere 58,000 residents within its corporate limits. Together the state's central cities constitute a mere 23.2 percent of South Carolina's MSA population.

Indeed, the term central city may be a misnomer in South Carolina, where metropolitan areas are widely dispersed around multiple growth points. A once-rural and predominantly agricultural society has been transformed into a largely suburban, rather than urban, milieu. Thus the state's municipalities, after long having their interests ignored by rural-dominated political institutions, now see their suburban neighbors in political ascendancy. And they continue to be deprived of the autonomy they need to confront the problems of growth which surround, envelope and increasingly isolate them.

Apart from the state-imposed fiscal restraints which municipalities share with counties, the most significant power currently denied to South Carolina's municipalities is the ability to expand their boundaries and incorporate the growth which is mushrooming around them. It is this limitation which accounts for the weakness, in both size and political clout, of South Carolina's cities amidst the rapid growth of the state's metropolitan areas.

Under current state law, municipalities in South Carolina are limited to annexation by petition of property-holders in the area to be annexed.<sup>10</sup> The method most often used is by petition of 75 percent of the "freeholders" in the area. Annexations effected by this method are subject to challenge in state courts and there are deadlines and specific administrative requirements which can make implementation difficult. A simpler method is available through a petition signed by all persons owning real estate in the given area. This method is often used by developers seeking incorporation into a municipality in order to gain access to city services.

While South Carolina law also provides for annexation by referendum, the vote can only be invoked by petition of the property-owners in the to-be-annexed area. This requirement, giving "freeholders" a special status in the electoral process, has been ruled by both state and federal courts to be a violation of the equal protection clause of the Fourteenth Amendment to the U. S. Constitution.<sup>11</sup>



Perhaps the most convincing evidence of the General Assembly's lack of responsiveness to urban needs has been its failure to take action to bring the provisions of these laws in line with constitutional requirements.

Attempts by South Carolina cities to expand their boundaries therefore are largely confined to new contiguous developments where owners seek to tap into urban services. Since most of these services can be provided in other ways in South Carolina, particularly through electrical cooperatives and special service districts, the incentives to annexation are often non-existent and, as growth patterns in recent decades testify, much new development takes place outside of municipalities. And developers seem to avoid especially the larger cities with greater tax burdens and more intense urban problems.

Restrictions on the growth of municipalities is a major cause of the stagnation of South Carolina's cities and the growing separation of metropolitan resources from urban problems. Table 2 compares the 1989 poverty rate for the state as a whole with the rates for the metropolitan counties and the central cities within those counties. Although the metropolitan counties have a poverty rate three percentage points below the statewide rate, cities within metropolitan areas have

Table 2

Percent of Population Below Poverty Line  
South Carolina and Metropolitan Areas  
(1989)

Metropolitan Counties	12.0
MSA-Designated Cities	19.1
The State	15.4

Source: South Carolina Statistical Abstract, 1994



an average rate four points above the state rate and seven points above that for metropolitan areas as a whole. Comparative poverty rates are a significant indicator of the concentration of social problems in South Carolina's cities as compared with the burgeoning and prospering suburban fringe. The state's restrictive annexation policy is a major factor contributing to this persistent and growing gap.

Apart from restrictions it places upon the growth of municipalities, state policy disadvantages South Carolina's urban areas more generally by encouraging the fragmentation and proliferation of governments within metropolitan areas. State law governing incorporation is relatively permissive, allowing communities outside municipal boundaries to form new municipalities with relative ease. And state law is also relatively liberal with respect to the formation of special service districts, which can often provide utility, recreation, fire protection and other services, nullifying incentives to the expansion of units of general government. Current law governing the consolidation of local governments, which could potentially provide some remedy to the problem of governmental proliferation in metropolitan areas, is so replete with loopholes and options for governmental units as to be rendered impracticable in most cases.<sup>12</sup>

South Carolina's central cities clearly can be classified as "inelastic" cities, to use the characterization David Rusk employs to differentiate cities which can expand their boundaries into areas of suburban development from those whose expansion is restricted by state law.<sup>13</sup> Rusk's study of cities around the United States emphasizes the importance of central city vitality to the overall economic and social health of the metropolitan region. With virtually no elasticity available to South Carolina's cities, their political and economic weakness is a potentially significant drag on the economic development of the state as a whole. A potential point of comparison lies just to the north, where the growth of North Carolina's cities has been accompanied by economic growth which has consistently outstripped that of its neighbor to the south. While three of South Carolina's five largest cities have declined in population since 1970, more liberal annexation laws in North Carolina have resulted in an average growth for its five largest cities over the same period of 42 percent.<sup>14</sup>

## **Conclusion**

Recent sessions of the South Carolina General Assembly, responding to the current conservative climate and the anti-government sentiment which lies at its core, have seen a reaction against local autonomy. Lawmakers have introduced a flood of proposals to restrict local powers in the name of less government. These developments have intensified concerns about the adequacy of South Carolina's intergovernmental system for the demands of the late twentieth century. The major local government organizations, the South Carolina Municipal Association and the South Carolina Association of Counties, have had to abandon their agendas of reform in favor of a defensive operation against further limitations upon local autonomy. The South Carolina Advisory Commission on Intergovernmental Relations, which over the years has conducted a number of carefully executed and thorough studies advocating stronger local governments with fewer state restrictions, has also seen its aggressive and forward-looking agenda set back by the current political climate.

At the heart of the problems faced by South Carolina local governments lies the continuing tension between the vestiges of traditionalism in the state's political institutions and the new individualism which is emerging in the state's economy, society and politics. While recognizing in the granting of home rule the need for more autonomous and entrepreneurial local governments, the state government nevertheless preserves much of the substance of traditionalism by withholding the critical fiscal powers necessary for local governments to carry out their new responsibilities. And South Carolina's cities continue to be hampered by restrictions on their powers which remain from an earlier era of traditionalistic rural dominance.

The new centers of power in South Carolina lie in the metropolitan suburbs and in the resort and tourism developments along the coast. The political culture of these new power centers is deeply grounded in the market values of individualism, and is just as deeply distrustful of a direct role for government in providing jobs and opportunity. Indeed, the values of suburban South Carolina's political culture conform closely to Elazar's characterization of individualism as encouraging

private initiative and economic development whole favoring new programs only upon strong public demand.<sup>15</sup>

While shaped more by individualistic than traditionalistic values, the prevailing suburban norms of South Carolina political life are fully consistent with the state's heritage of anti-urbanism and weak local governments. Among the more salient characteristics of suburban political life are an antipathy to the city and a decline in a sense of community inclusive of the diversity of metropolitan areas.<sup>16</sup> Thus the future of intergovernmental relations in South Carolina will be characterized by a continuing struggle between forces determined to limit the scope of local authority, especially the power of cities, and local governments seeking expanded autonomy to cope with the new realities of growth and competition in the global economy.

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